



Inquiry into Appropriation Bill 2026–2027 and Appropriation (Office of the Legislative Assembly) Bill 2026–2027

Answer to question on notice

Asked by: Mr Thomas Emerson MLA

Addressed to: Human Rights Commission

Redirected to:

Reference: 2026-27 Budget Estimates

Hearing: 22 July 2026

In relation to: Palliative care investigations by the Human Rights Commission

Question received: 22/07/2026

Answer Due: 06/08/2026

1. I've been contacted by a constituent who believes the palliative care services provided to her grandmother were not sufficient or appropriate and wanted to make a complaint but the body responsible for investigating complaints about health services – the ACT Human Rights Commission – won't accept a complaint from this constituent because she is not the executor of her grandmother's estate. S 43 (1) (d) of the *Human Rights Commission Act 2005* outlines that complaints can only be made by a person who "has guardianship or control of the affairs of the aggrieved person under another law or an order of the court or tribunal", meaning that, in this case, a complaint can only be made with approval of the executor. Is there any other entity that could receive this complaint?
2. Is the Human Rights Commission concerned that this constraint may inappropriately limit what can be investigated? Has this been raised with the Commission as an issue at all, and has the Commission advocated for any reform in this area?

Karen Toohey: The answer to the Member's question is as follows:

1. The ACT Human Rights Commission (HRC) is not able to comment on individual matters. The HRC is not aware of another entity that could receive a complaint in the circumstances outlined above and can only suggest the person seek legal advice if they wish to pursue the matter.

2. The Human Rights Commission Act 2005 (HRCA) allows for complaints to be made by a wide range of people as provided for by s.43 of the HRCA extracted below.

The HRC also has broad Commission Initiated Consideration (CIC) powers under s.48 of the HRCA, extracted below, which enables the Commissioner to effectively be a complainant where issues raised by a matter or raised with the HRC warrant consideration by the Commission but a person has not made a complaint or a person can not make a complaint or where it is in the public interest for the issues to be considered by the HRC.

The HRC does not consider there is an inappropriate constraint on who may make a complaint to the HRC or how complaints can be considered by the HRC given the breadth of provisions outlined below and the breadth of the CIC function.

The HRC regularly reviews the procedural provisions of the Human Rights Commission Act 2005 and has not identified these provisions as being a barrier to complaints being made to the HRC.

S.43 Who may make a complaint under this Act?

- (1) A complaint about an act, service or conduct may be made to the commission under this Act by—
 - (a) a person (the **aggrieved person**) aggrieved by the act, service or conduct; or
 - (b) an agent of the aggrieved person; or
 - (c) if the aggrieved person is a child or young person—a parent or guardian of the aggrieved person; or
 - (d) if a person has guardianship or control of the affairs of the aggrieved person under another law or an order of a court or tribunal—that person; or
 - (e) if the aggrieved person cannot complain for any reason and no-one has guardianship or control of the aggrieved person's affairs under another law or an order of a court or tribunal—a person approved by the commission to make a complaint for the aggrieved person; or
 - (f) if the complaint is a discrimination complaint—a person who has a sufficient interest in the complaint; or
 - (g) if the complaint is a health service complaint, disability service complaint or older people service complaint—anyone; or
 - (h) if the complaint is an occupancy dispute complaint—an occupant under the occupancy agreement.

Note 1 If a complaint is made under par (g) by a person who could not otherwise complain under another paragraph, the commission may conduct a commission-initiated consideration into the matters raised by the complaint (see s 48 (2)).

Note 2 If a person's victims rights concern is referred to the commission, the person is taken to have made a victims rights complaint (see s 41C).

- (2) For subsection (1) (a), if the complaint is a human rights complaint—an aggrieved person includes a person who would be aggrieved by the act.
- (3) For subsection (1) (f), a person has a **sufficient interest** in a complaint if the conduct complained about is a matter of a genuine concern to the person because of the way conduct of that kind adversely affects, or has the potential to adversely affect, the interests of the person or interests or welfare of anyone the person represents.
- (4) To remove any doubt—
 - (a) no-one may be required to make a complaint; and
 - (b) an aggrieved person may make a complaint under subsection (1) (a) even though the person is under a legal disability (for example, if a child is aggrieved, the child may make a complaint); and
 - (c) if a complaint is made under subsection (1) (g)—the complainant cannot require the complaint to be considered.
- (5) To remove any doubt, a carer may make a complaint as an agent of the aggrieved person under subsection (1) (b) even though the carer is under a legal disability (for example, if a child is a carer of the aggrieved person, the child may make a complaint as an agent of the person).
- (6) A person may act as the agent of the aggrieved person only if the person is—
 - (a) authorised in writing to act for the aggrieved person; or
 - (b) authorised by the commission to act for the aggrieved person.
- (7) A person mentioned in subsection (1) (f) may make a complaint only if the aggrieved person consents to the making of the complaint.
- (8) The commission may authorise a person to act as the agent of the aggrieved person only if the commission is satisfied, on reasonable grounds, that the aggrieved person cannot for any reason make a complaint or authorise a person to make a complaint for the aggrieved person.
- (9) A single complaint may be made by or for 2 or more aggrieved people.

s.48 Consideration without complaint or appropriate complainant

- (1) The commission may, on its own initiative, consider (by a **commission-initiated consideration**)—
 - (a) an act, service or conduct that appears to the commission to be an act, service or conduct about which a person could make, but has not made, a complaint under this Act; or
 - (b) any other matter related to the commission's functions.

Examples

The commission may consider an issue of public interest or public safety that relates to its functions.

Note 1 A complaint about a health practitioner or a veterinary practitioner may also be dealt with by commission-initiated consideration (see s 94 (2)).

Note 2 The commission—

- (a) must consult with the custodial inspector in relation to any commission-initiated consideration involving a detainee or correctional centre or service (see [Custodial Inspector Act 2017](#), s 33); and
- (b) may refer a matter to the inspector if the commission reasonably believes the matter can be more appropriately dealt with by the inspector (see [Custodial Inspector Act 2017](#), s 34).

(2) The commission may, on its own initiative, also consider (by a **commission-initiated consideration**) a complaint that is a children and young people service complaint, disability service complaint, health service complaint, older people service complaint, victims rights complaint or vulnerable person complaint, if—

- (a) the person who made the complaint could not have made the complaint under section 43 (1) (a) to (d); and
- (b) the commission does not approve the person under section 43 (1) (e) to make the complaint for the aggrieved person.

Note Under s 43 (1) (a) to (e), complaints may be made by an aggrieved person, an agent of an aggrieved person, a parent or guardian of an aggrieved person who is a child or young person, a person with guardianship or control of an aggrieved person or a person approved by the commission to make the complaint on an aggrieved person's behalf.

(3) Without limiting when the commission may consider a matter by a commission-initiated consideration, the commission may consider a complaint by a commission-initiated consideration if—

- (a) the complainant has withdrawn the complaint for any reason; but
- (b) the commission is satisfied that it is in the public interest to consider the complaint.

Examples of when it may be in the public interest to consider withdrawn complaint

- 1 The complaint appears to reveal a systemic problem about an activity or a service.
- 2 The complaint, if substantiated, raises a significant issue for the ACT, or an issue of public safety.
- 3 It may be possible for action in relation to the complaint to be taken under another Act if the complaint is substantiated by, for example, reporting a veterinary practitioner to the veterinary practitioners board or making an application for an occupational discipline order in relation to the veterinary practitioner to the ACAT.

(4) A commission-initiated consideration must, as far as practicable, be conducted as if it were a consideration of a complaint.

Note The commission is the complainant for a commission-initiated consideration (see dict, def **complainant**).

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Approved for circulation to the Select Committee on Estimates

A handwritten signature in black ink, appearing to read 'Karen Toohey', is centered within a white rectangular box.

Signature:

Date: 6 August 2026

By the Discrimination, Health Services, Disability & Community Services Commissioner, Karen Toohey